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[AS AMENDED IN COMMITTEE]

TO

Amend the County Court (Ireland) Acts.

A.D. 1889.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

5 1. This Act shall extend to Ireland only.

Application
of Act.
Short title.

2. This Act may be cited as the County Court Appeals (Ireland) Act, 1889.

3. The terms and expressions used in this Act shall have the same meanings respectively as they have in the County Officers and Courts (Ireland) Act, 1877, unless there is something in the context repugnant thereto; and in this Act "Court of Appeal" means Her Majesty's Court of Appeal in Ireland, and "High Court" means Her Majesty's High Court of Justice in Ireland.

Interpreta-
tion of terms.

4. Any party to a suit or matter dissatisfied with any decree, dismiss, direction, or order, of whatsoever nature, and whether adverse to him or in his favour, pronounced by any county court judge in the exercise by him of any jurisdiction in equity or in probate matters, may appeal therefrom to the judge of assize for the county in which such decree, dismiss, direction, or order shall have been made or pronounced, in any case in which it shall not be necessary for the purpose of the decision of such appeal that an account should be taken by such judge of assize; and such judge of assize is hereby empowered and required to hear such appeal and to make such decree or order thereon as he shall think proper, or he may remit the suit or matter to the county court judge with such declarations or directions as he shall think proper; and upon the hearing of every such appeal the judge may award all or such

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costs and all or such expenses of witnesses in connexion with the appeal, and also all or such costs and all or such expenses of witnesses in the civil bill court, to be paid by or to such of the parties to the suit or matter as to him shall seem just, and may order any money deposited by any such party to the credit of any such suit or matter to be applied in or towards payment of such costs or expenses, or to be returned to the party lodging the same, or to be otherwise disposed of in accordance with the decree or order made upon appeal, as to such judge shall seem just.

Any person bringing an appeal under the provisions of this section shall, on instituting such appeal, be deemed to have abandoned any other right to appeal or to have a case stated, which he may have in respect of the same matter.

Attendance
of clerks of
Crown and
peace.

5. The clerk of the peace, or clerk of the Crown and peace, where the offices of clerk of the Crown and clerk of the peace have been united under the provisions of the County Officers and Courts (Ireland) Act, 1877, is hereby required to attend in court on the hearing of every appeal under this Act, and to record in the prescribed manner the proceedings on such hearing, and to prepare the order to be signed by the judge of assize in accordance with his decision upon the appeal.

Made of
appeal.

6. Every appeal under this Act shall be taken in such manner and form, and subject to such security for costs and otherwise, as shall be prescribed, or until rules and orders shall be made under this Act in the manner and form as nearly as may be, and subject to the conditions specified in the County Court Amendment (Ireland) Act, 1882.

Power of
county court
judge to
state a case.

7. Any person dissatisfied with the decision on any question of law made by a county court judge, in the exercise by him of any jurisdiction in equity or probate matters, may require the county court judge to direct a case to be stated; and the county court judge, unless satisfied that the application is frivolous or vexatious, shall direct a case to be stated, and shall sign the same, and it shall be lodged in the prescribed manner in the High Court. Cases stated in equity shall be heard and determined by the Lord Chancellor or one of the judges of the Chancery Division of the High Court amongst whom the Lord Chancellor may distribute such cases. Cases stated in probate matters shall be heard and determined by the President of the Probate and Matrimonial Division of the High Court.

A case may, if necessary, be amended either before or at the hearing by consent of the parties, or it may be referred back for

amendment to the county court judge by whom the case was directed to be stated, or his successor in office. A.D. 1889.

The Lord Chancellor may, by general or special order, provide for the distribution amongst the judges of the Chancery Division of the High Court of the cases stated in equity lodged in court under this section. Until other provision is made by such general or special order for the distribution of the said cases stated in equity the same shall be distributed in the manner provided by the orders in force at the passing of this Act for the distribution of equity appeals from county courts, under section forty-five of the County Officers and Courts (Ireland) Act, 1877.

Any person requiring a case to be stated under the provisions of this section shall, on such case being stated, be deemed to have abandoned any other right he may have to have a case stated, or to appeal in respect of the same matter.

8. Where two or more of the parties to a suit or matter require a case to be stated in reference to the same decision of a county court judge, a single case only shall be stated, which shall be stated in the prescribed manner; and where two or more of such parties proceed to question such decision, unless all of such parties shall agree to proceed in the same manner of questioning such decision shall be by a single appeal to the judge of assize, in such manner and subject to such conditions as may be prescribed. Consolidation of appeals.

9. The decision of the judge of assize upon any appeal brought under the provisions of this Act shall be final and conclusive except in such case as is herein-after provided, and the decision of the Lord Chancellor, judge of the Chancery Division of the High Court, or president of the Probate and Matrimonial Division of the High Court, as the case may be, upon any case stated under the provisions of this Act, shall be final and conclusive in all cases. Decisions to be final.

The judge of assize, on the hearing of any appeal brought under the provisions of this Act, or the Lord Chancellor, or other judge, on the hearing of an appeal under the provisions of the County Officers and Courts (Ireland) Act, 1877, notwithstanding the forty-third section of the said Act, may give special leave to appeal to the court of appeal on a question of law, in which case an appeal may be brought in the prescribed manner to the court of appeal on such question, which may make such order in respect of the matter of the appeal and as to costs, as to the said court shall seem just, and whose decision shall be final and conclusive. 40 & 41 Vict. c. 56, s. 43.

10. Such appeal shall be in the form of a case agreed on by both parties or their counsel or solicitors, and if they cannot agree, the As to appeals, 13 & 14 Vict. c. 61, s. 15.

A.D. 1889.

judge of assize by whom the case was heard, upon being applied to by either of the parties or their counsel or solicitors, shall settle and sign the same.

Cases stated by way of appeal shall be lodged in the High Court, and shall be disposed of in such divisions thereof as may be prescribed; and until rules of court are made for prescribing such divisions, such cases, if they relate to causes or matters in equity, shall go to the Chancery Division of the High Court, and if they relate to probate matters they shall go to the Probate and Matrimonial Division of the High Court; and if they relate to matters other than in equity or probate, shall be distributed between the Queen's Bench Division and the Exchequer Division of the High Court in the proportions herein-before provided for cases stated by a county court judge.

Such cases may, if necessary, be amended by the division or judge hearing the same either by consent of the parties or on the certificate of the judge before whom the civil bill appeal was heard.

If on any appeal the judge's notes are not produced upon the hearing in the High Court, or are deemed by the court to be incomplete, the divisional court or judge may hear and determine such appeal upon such further or other evidence as the court may deem sufficient.

The statement of a case, or the pendency of an appeal, under this Act, shall not operate as a stay of execution unless and until full security by lodgment, or otherwise, shall have been given for costs to the extent and in the manner prescribed by rules under this Act.

Effect of
decision
where case
stated.

11. From and after the passing of this Act it shall be lawful for a county court judge to direct the clerk of the peace, or clerk of the Crown and peace, where the offices of clerk of the Crown and clerk of the peace have been united as aforesaid, to attend at any place or places within his jurisdiction during such days as he shall think right for the purpose of conducting such inquiries and taking such accounts as shall be referred to him, and every clerk of the peace, where that office has not been united with the office of clerk of the Crown as aforesaid, shall be paid out of moneys to be provided by Parliament, for such extra days service such sum as may be approved of by the Lord Chancellor, with the consent of the Treasury.

Allowances
to clerks of
peace.

12. There shall also be paid out of moneys to be provided by Parliament, to clerks of the peace, and clerks of the Crown and peace, sums at the usual rate for subsistence allowances and travelling

expenses while employed in the discharge of any additional duties imposed upon them by or under this Act. A.D. 1869.

13. In the application of this Act to the courts held by the Recorder of Dublin, a judge of the High Court shall be instead of a judge of assize, according to the practice heretofore used in appeals from the Recorder. Provision for special circumstances of Dublin county and city.

14.—(1.) In this Act, the expression “prescribed” means prescribed by rules and orders under this Act. Rules of court, procedure, forms, scale of fees.

(2.) Rules and orders may be made for the purposes of this Act, and for prescribing forms, and for prescribing the notices required to be given to the parties to any proceeding to which this Act applies, and for directing which of such parties are entitled to be served with such notices, and for prescribing scales of fees and costs.

(3.) Service of all notices and legal documents whatever may be effected, either according to the existing rules, orders, or statutory enactments applicable thereto, or in the prescribed manner.

(4.) In the case of the High Court the power of prescribing anything authorised by this Act to be prescribed shall be exercised by the authority, and subject to the conditions, by and subject to which the like powers are exercised under the Supreme Court of Judicature Act (Ireland), 1877, as amended by any other Act. In cases arising under the Land Law (Ireland) Act, 1887, rules may be made by the authority mentioned in section thirty-three of the said Act.

(5.) In the case of the county court, the aforesaid powers shall be exercised by the authority and subject to the conditions by and subject to which they are exercised under the County Officers and Courts (Ireland) Act, 1877, as amended by any other Act or Acts.

(6.) All rules and orders, and scales of fees, costs, and charges, prescribed by rules made by the authorities mentioned in the said Acts respectively shall be and continue in full force and effect until altered according to law.

15. All jurisdiction, powers, and authorities conferred upon any civil bill court by the County Officers and Courts (Ireland) Act, 1877, and the County Court Amendment (Ireland) Act, 1883, are hereby conferred upon and may be exercised by any judge of assize engaged in hearing any appeal under this Act from any civil bill court. Jurisdiction extended to judge of assize.

16. The judge of assize, on the hearing of any appeal from the decision of a county court judge in the case of an ordinary civil bill, Amendment of civil bill on appeal.

A.D. 1869. — may amend such civil bill into an equity civil bill, and may make such other amendments consequential thereon in the statement of the plaintiff's claim as the judge shall think fit; and the judge of assize, on the hearing of any appeal brought under the provisions of this Act, shall have such and the same powers of amendment as are 5 conferred on the judge of assize on appeal by the forty-eighth section of the Civil Bill Courts Procedure Amendment Act (Ireland), 1864.

37 & 38 Vict.
c. 96. s. 48.

Act not to
interfere
with existing
rights of
appeal.

17. The provisions of this Act shall be in addition to, and not in substitution for, any right to appeal from or have a case stated by 10 a county court judge existing at the time of the passing of this Act.

County Court Appeals
(Ireland).

B I L L

[A BILL FOR AN ACT TO AMEND THE COUNTY COURT ACTS.]

To amend the County Court (Ireland)
Act.

(Prepared and introduced by
Mr. P. M. Buckley, Mr. O'Shea, Mr. O'Hara,
and Mr. Joseph Kinnear.)

Ordered, by The House of Commons, to be Printed,
17. May 1888.

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